

LI et al.
Application No.: 10/628,587
Page 2

PATENT

The Examiner has further requested an election of a specific inducible operator sequence. The Examiner is asked to reconsider this election as it is not an recited element of the method claims of Group III. However, to provide a complete response applicants elect the tetracycline operator, tetO.

The elected species read on the following claims of group III: Claims 16-20.

Finally the Examiner is asked to consider rejoining groups II and III. The Examiner argues that the library of group II could be manufactured using a materially different process by synthesizing the complementary part of the randomized region by a method other than by polymerase extension. The Examiner further notes that randomization is not a physical difference.

In response, applicants urge that randomization is a physical difference in the context of the library. The Examiner is correct that there is no physical differences when individual members, ie. the individual expression cassettes of Group I, are examined. Once it is understood that a "random" library can be physically distinguished from a non-random library, it follows that it is not possible to preselect the complementary region for the library as an entity and that polymerase extension of Group III is the only way to produce the products of group II. Accordingly, the groups are properly a single invention.